

## **Chapter 3**

### **ADMINISTRATION**

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- 3-4 DISPOSITION OF PROPERTY**
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## **Article 3-1**

### **OFFICERS IN GENERAL**

#### **Sections:**

- 3-1-1           Town Manager**
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- 3-1-3           Town Presiding Judge**
- 3-1-4           Town Clerk**
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- 3-1-10          Additional Powers and Duties**

#### **Section 3-1-1   Town Manager**

- A.   Office Created. The office of the town manager is hereby created and established. The town manager shall be appointed by the council on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of office as hereinafter set forth; and he shall hold office for and at the pleasure of the council.
- B.   Eligibility. Residence in the town, at the time of appointment, shall not be required as a condition of appointment. However, within six months from the date of appointment, the town manager must become a resident of the town, unless an extension of time is granted by the council.
- C.   Bond. The town manager shall secure a corporate surety bond to be approved by the council in such sum as may be determined by the council. The bond shall be conditioned upon the faithful performance of the duties imposed on the manager as prescribed in this article. The bond fee shall be paid by the town.
- D.   Absence. To perform the duties of town manager during the temporary absence or disability of the permanent town manager, the council may designate a qualified administrative officer or a member of the council of the town.
- E.   Removal. The town manager may be removed by the council by a majority vote of its members immediately for cause or upon ninety days notice without cause. As used herein and as it relates to the termination of employment of the town manager, the term "for cause" shall mean malfeasance in office or willful breach or habitual neglect of duties, as such duties are described in this section or illegal activity within or without the conduct of this office.
- F.   Resignation. The manager shall give in writing a sixty day notice of his intention to resign before leaving the office of town manager.
- G.   Compensation. The manager shall receive such compensation as the council shall from time to time determine, and said compensation shall be a proper charge against such funds of the town as the council shall designate. The town manager shall be reimbursed for all sums necessarily

incurred or paid by him in the performance of his duties, or incurred when traveling on business pertaining to the town as approved by the council; reimbursement shall be made only when a verified itemized claim, setting forth the sums expended for which reimbursement is requested, has been presented and approved by the council.

H. Powers and Duties. The town manager shall be the administrative officer of the town government and shall be responsible to the council for the proper administration of all affairs of the town under the specific direction and control of the council. In addition to the general powers as the chief administrative officer and not as a limitation thereon, it shall be the manager's responsibility and authority:

1. To see that all laws and ordinances of the town are duly enforced, and that all franchises and privileges granted by the town are faithfully observed.
2. To appoint and, when necessary, suspend or remove all employees of the town except those officers appointed by the council. All appointments and removals shall be based upon merit and upon the qualifications and disqualifications of such employee without regard to any political belief or affiliation.
3. To coordinate the administrative functions and operation of the various departments, boards, divisions and services of the town government, and on its behalf to carry out policies, rules, regulations and ordinances adopted by it, relating to the administration of the affairs of such departments, boards, divisions or services. Such powers and duties to be subject to the following provisions:
  - a. That the organizational structure under which municipal services are performed shall be specified in an organization chart approved by the council.
  - b. That prior to any creation, combination, consolidation or deletion of any positions of employment, written job descriptions or amendments thereto shall have been approved by the council.
4. To attend all meetings of the council unless excused therefrom and to attend, or designate a representative to attend, all board and commission meetings.
5. To recommend to the council for adoption such measures and ordinances as are necessary.
6. To recommend to the council at periodic intervals changes needed in the town code.
7. To prepare and to submit a summary of all contracts, agreements, etc. of which the town is a party for review by the council before March 1st of each year.
8. To keep the council at all times fully advised as to the financial conditions and needs of the town. To provide whatever reports to the council as it may deem necessary.
9. To prepare and submit to the council a proposed annual budget for the next fiscal year and a financial plan for the subsequent four fiscal years.
10. To analyze the functions, duties and activities of the various departments, boards and services of the town government and of all employees thereof, and to make such recommendations to the council with reference thereto, as in his judgment will result, if made effective, in the

highest degree of efficiency in the overall operation of the town government.

11. To investigate all complaints in relation to matters concerning the administration of the town, its utilities or enterprises.
  12. To exercise general supervision over all public buildings, public parks and other public property which are under the control and jurisdiction of the council.
  13. To devote as much time to the duties of the office of town manager and the interest of the town as necessary.
  14. To perform such other duties and exercise such other powers as may be delegated from time to time by ordinance or resolution of the council.
- I. Council to Act Through Manager. Except for the purpose of inquiry, the council and its members shall deal with the administrative branch solely through the manager, and neither the council nor any member thereof shall give orders to any subordinate of the manager either publicly or privately.

### **Section 3-1-2 Town Attorney**

The attorney shall be appointed by and serve at the pleasure of the council and shall act as the legal counselor and advisor of the council and other town officials and, as such, shall give his opinion in writing when requested. He shall draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council. He shall approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the council. He shall return within ten days all ordinances and resolutions submitted to him for consideration by the council, with his approval or disapproval as to form noted thereon, together with his reasons therefor. He shall prosecute and defend all suits, actions or causes where the town is a party and shall report to the council, when required, the condition of any suit or action to which the town is a party.

### **Section 3-1-3 Town Presiding Judge**

The town presiding judge shall be appointed by the council and shall be the presiding officer of the municipal court. He shall perform those functions necessary to the maintenance of the municipal court as provided by state law.

(Ordinance 02-03, Amended, 03/21/2002)

### **Section 3-1-4 Town Clerk**

- A. Records. The clerk shall keep a true and correct record of all business transacted by the council and any other records that either pertain to the business of the town or that the council directs. The clerk shall plainly label and file separately in a suitable cabinet all resolutions, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.
- B. Public Inspection of Records. The clerk shall keep convenient for public inspection all public

records and public documents under his control, as provided by state statute.

- C. Monthly Reports. The clerk shall prepare and collect from town officers and employees such monthly reports prepared in such manner and to include such information as may be directed by the council.
- D. Minutes. The clerk shall prepare or cause to be prepared all minutes of council proceedings and ensure their correctness and accuracy.
- E. Ordinances, Resolutions, Budgets and Notices. The clerk shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council.
- F. Election Official. The clerk shall be the town election official and perform those duties required by state statute.
- G. Licenses. The clerk shall issue or cause to be issued all licenses that may be prescribed by state statute or this code.
- H. Administrative Duties. The clerk shall perform those administrative responsibilities and duties that are conferred upon him by the council or the manager in addition to those specified in this code.

### **Section 3-1-5 Town Marshal/Law Enforcement Agent**

The town manager or designee, shall serve as the town marshal/law enforcement agent and shall provide for enforcement of town ordinances. The town manager shall have the authority to enter into an intergovernmental agreement or contract for the provision of law enforcement services. Enforcement will be effected by either issuance of citations or summons and complaint to persons accused of violating town ordinances.

(06-14, Amended, 05/18/2006)

### **Section 3-1-6 Department Heads**

- A. There are hereby created the following departments, each of which shall be under the immediate direction of a department head as set forth herein:
  - 1. Community Development Department
  - 2. Parks and Recreation Department
  - 3. Public Works Department
- B. The head of each department shall be appointed by and report to the town manager. The town manager shall advise the council of each such appointment at the regular council meeting next following such appointment. Department heads shall be subject to the merit system.

(06-14, Amended, 05/18/2006)

### **Section 3-1-7 Additional Officers**

The council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or statute.

### **Section 3-1-8 Bond**

The council may, at its discretion, require that any officer of the town post a bond for faithful performance with such sureties as are acceptable to the council. The bond shall be payable to the town, and the town shall pay all costs in connection therewith.

### **Section 3-1-9 Vacancies; Deputies; Holding More Than One Office**

- A. A vacancy in any office not subject to council appointment shall be filled by appointment of the town manager.
- B. The powers and duties of any of the offices enumerated in Section 3-1-6 may be performed by a deputy upon authorization of the town manager.
- C. It shall be lawful for one person to hold more than one office, but such person shall be compensated only for one office to which he has been regularly appointed.

### **Section 3-1-10 Additional Powers and Duties**

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties and hold such other offices as the council may provide.

## **Article 3-2**

### **MERIT SYSTEM**

#### **Sections:**

- 3-2-1            Creation and Scope**
- 3-2-2            Conditions of Employment; Non-discrimination**
- 3-2-3            Rules and Regulations**
- 3-2-4            Political Activity**
- Section 3-2-1   Creation and Scope**

- A.     There is hereby created and adopted a merit system governing the employees of the town, except those enumerated in this section, for the purpose of regulating the conditions of employment and removal of employees of the town.
- B.     The merit system adopted by this article shall not apply to elected officials; officers subject to appointment and removal by the council; consultants hired on a contract basis; contract employees; part-time employees whose regular work week is nineteen hours or less; non-permanent employees; volunteer workers who receive no regular compensation from the town and members of boards, committees and commissions established by the council.

#### **Section 3-2-2   Conditions of Employment; Non-discrimination**

The appointment, promotion and tenure of all employees identified in Section 3-2-1 shall be conditioned solely on merit, fitness and the satisfactory performance of the duties and responsibilities assigned. No employee or applicant for employment shall be discriminated against on the basis of race, color, religion, gender, political affiliation or handicapped status.

#### **Section 3-2-3   Rules and Regulations**

The council shall adopt by ordinance or resolution written rules and regulations to give effect to this article.

#### **Section 3-2-4   Political Activity**

- A.     All employees will remain free from any political activity in a Fountain Hills municipal election:
  - 1.   No employee may solicit or attempt to solicit support for a candidate or political party involved in a Fountain Hills municipal election from any employee or appointed official.
  - 2.   No employee may take any part in the campaign of a candidate participating in a Fountain Hills municipal election.
  - 3.   An employee may exercise their rights as a citizen to vote and to express opinions as an individual citizen, but not as a representative of the town.

- B. No paid employee will seek election to public office with the town while still employed by the town.
- C. No paid employee will use their position to sell, solicit or distribute any campaign material during working hours or in a uniform used by or identified with the town government.
- D. No paid employee will use their position to introduce, guide or recommend any candidate for public office on town property.



## **Article 3-3**

### **PURCHASING**

#### **Sections:**

- 3-3-1 Scope of Article**
- 3-3-2 Council Approval; When Required**
- 3-3-3 Purchasing Director; Duties**
- 3-3-4 Emergency Purchases; Procedure**
- 3-3-5 Purchases in General; Bids**
- 3-3-6 Bidding Procedure**
- 3-3-7 Lowest Responsible Bidder**
- 3-3-8 Performance Bond**
- 3-3-9 Exclusive Service**
- 3-3-10 Professional and Technical Services**
- 3-3-11 Forms**
- 3-3-12 Purchase Orders**
- 3-3-13 Cooperative Purchasing**
- 3-3-14 Local Preference**
- Section 3-3-1 Scope of Article**

This article shall govern the purchase of any goods or services for or on behalf of the town.

#### **Section 3-3-2 Council Approval; When Required**

No purchases shall be made by or on behalf of the town without first obtaining council approval in the following instances:

- A. Where prior approval is required by this code;
  - B. Where the purchase of the item is not provided in the budget as adopted;
  - C. Where the funds for the purchase are not provided in the budget as adopted;
  - D. For the expenditure of funds in an amount in excess of twenty thousand dollars.
- (98-27, Amended, 09/03/1998)

#### **Section 3-3-3 Purchasing Director; Duties**

- A. The town manager shall serve as the purchasing director and shall have direction of all purchases of goods and services made by or on behalf of the town. The purchasing director may delegate his administrative functions.
- B. The purchasing director shall approve or deny all purchase requests and shall report to the council on any purchase requiring council approval.

#### **Section 3-3-4 Emergency Purchases; Procedure**

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the mayor shall be empowered to authorize the purchasing director to purchase goods or services without complying with the requirements and procedures in this article. A full report of the circumstances of such emergency and the goods or services obtained shall be made to the council at its next regular meeting.

#### **Section 3-3-5 Purchases in General; Bids**

- A. Purchases under \$2,000. Whenever the contemplated purchase or contract for services is for a sum of less than \$2,000, the purchasing director may obtain the goods or services without further formality.
- B. \$2,000 to \$5,000 Inclusive. Whenever any contemplated purchase or contract for services is for the sum of at least \$2,000 but not more than \$5,000, the purchasing director shall obtain at least three verbal quotes therefore, if possible. He may solicit quotes or advertise for quotes using the procedure provided in this article. Upon review of the quotes, he shall award the purchase or contract to the lowest responsible bidder.
- C. \$5,000 to \$20,000 Inclusive. Whenever any contemplated purchase or contract for services is for the sum of at least \$5,000 but not more than \$20,000, the purchasing director shall obtain at least three verbal quotes therefore, if possible. He may solicit quotes or advertise for quotes using the procedure provided in this article. Upon review of the quotes, he shall award the purchase or contract to the lowest responsible bidder.
- D. In Excess of \$20,000. No purchase or contract in an amount in excess of \$20,000 shall be awarded without prior council approval. The purchasing director shall present the bids obtained to the council and shall report to them on the need for the goods or service and the advantages or disadvantages of the contract and bid proposals.

(98-27, Amended, 09/03/1998)

#### **Section 3-3-6 Bidding Procedure**

Except as provided in Sections 3-3-9, 3-3-10 and 3-3-13, the purchasing director shall follow the procedure set forth in this section for all purchases and contracts subject to the bidding process:

- A. A notice or solicitation for bids shall state the date, time and place of opening, and the place and time period within which bids shall be submitted.
- B. The notice shall state with particularity the goods or services required and shall state the place where specifications may be examined.
- C. Bids shall be submitted in a sealed envelope clearly identified as a bid on the front of the envelope. Any bid not received within the time period allowed shall be rejected.
- D. All bids shall be opened in public at the time and place specified, and a tabulation of all bids

received shall be posted in town hall for public inspection.

- E. The purchasing director and the council shall have the right to reject any and all bids and parts of bids and to readvertise or resolicit for bids.

### **Section 3-3-7 Lowest Responsible Bidder**

Unless the council or the purchasing director, as appropriate, shall exercise the right of rejection, all goods and services in an amount in excess of \$20,000 shall be awarded to the lowest responsible bidder, except as provided in Sections 3-3-9, 3-3-10, 3-3-13 and 3-3-14. In determining the lowest responsible bidder, the council or the purchasing director shall consider:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required in a timely manner.
- B. The quality of performance in previous contracts with the town together with previous and existing compliance with the ordinances of the town.
- C. The financial resources and ability of the bidder.
- D. The quality, availability and adaptability of the goods or service.  
(98-27, Amended, 09/03/1998)

### **Section 3-3-8 Performance Bond**

The purchasing director shall have the authority to require a performance bond, in such amount as he may deem sufficient to secure the execution of a contract.

### **Section 3-3-9 Exclusive Service**

In the event that there is only one person or entity capable of providing a particular commodity or service, the requirement of this article concerning bidding procedures shall not be applicable.

### **Section 3-3-10 Professional and Technical Services**

- A. The provisions of this article shall not apply to professional or technical services, but the purchasing director shall determine the scope of the services required and may, at his option, require the submission of proposals prior to engaging such services.
- B. No person or firm practicing in a professional or technical field for which a license is required by state law shall be engaged by the town unless possessing a current license in good standing.
- C. Upon engagement the town shall enter into a written agreement or memorandum of understanding for the performance of the services for which engaged, setting forth the scope of services and the unit or total price therefore.

### **Section 3-3-11 Forms**

The purchasing director shall provide such forms as may be necessary for the proper administration of this article, including but not limited to the following:

- A. Bid Specification Form. The bid specification form shall state the specifications for the goods or service required and shall be available for inspection by prospective bidders as of the first publication of the notice of bid.
- B. Notice to Bidders. The notice to bidders shall set forth the goods or services sought, the day, time and place when bids will be opened, the dates and times within which bids will be received, when specifications may be reviewed and where available and such other information as may be required to secure the most advantageous bids.

### **Section 3-3-12 Purchase Orders**

- A. In General. The purchasing director shall provide forms of purchase order which shall be used for the purchase of all goods and services for or on behalf of the town.
- B. Open Purchase Orders. Open purchase orders may be provided by the purchasing director for the routine purchase of regularly supplied items. An open purchase order shall be limited to a single source and shall not be valid for more than \$5,000 in the aggregate. All open purchase orders shall expire at the end of the fiscal year of issuance and the expiration date shall be plainly stated on the face thereof.

(98-27, Amended, 09/03/1998)

### **Section 3-3-13 Cooperative Purchasing**

This article shall not apply to purchases made by, through or with the State of Arizona or its political subdivisions. The town may make purchases or award contracts for services without a formal bidding process whenever other governmental units have done so for the same item or service if, in the opinion of the purchasing director, a separate bidding process is not likely to result in a lower price for such items or services.

### **Section 3-3-14 Local Preference**

In awarding contracts for supplies, equipment and contractual services of an estimated value less than ten thousand dollars, the contract shall be awarded to bidders who have had both a place of business located within the municipal limits of the town and a business license issued by the town for a period of not less than twelve months prior to the date of award of the contract in preference to a competing bidder whenever the bid of the competing bidder of equivalent quality and suitability is less than five percent lower. This preference shall not be used where state law or any applicable federal law or regulation forbids the granting of such preference or requires another method for competitive bidding. This section shall not apply to contracts for professional services pursuant to this article, nor to purchases made pursuant to Sections 3-3-9, 3-3-10, and 3-3-13 of this article.



## **Article 3-4**

### **DISPOSITION OF PROPERTY**

#### **Sections:**

- 3-4-1 In General**
- 3-4-2 Definitions**
- 3-4-3 Property Administrator**
- 3-4-4 Disposition of Personal Property**
- 3-4-5 Disposition of Real Property**
- Section 3-4-1 In General**

No property belonging to the town shall be disposed of except in accordance with this code and such rules as the council may adopt pursuant to this code.

#### **Section 3-4-2 Definitions**

In this article, unless this code or state statutes provide otherwise:

- A. "Contract" means an agreement, oral or written, respecting the transfer of property, real or personal, to or from the town.
- B. "Disposition" means the sale, lease or other means of divestiture of title or the right to possession of any property belonging to the town.
- C. "Personal property" means property which is tangible and movable without damage, but may include fixtures attached to real property.
- D. "Property administrator" means the town manager or designee assigned as custodian of all property belonging to the town.
- E. "Real property" means property consisting of land or structures affixed to land.

#### **Section 3-4-3 Property Administrator**

The town manager shall serve as the property administrator for the town and shall have custody of all property, real or personal, belonging to the town. The town manager may designate some other employee of the town as property administrator, and such designee shall report to the town manager. The property administrator shall maintain a complete inventory of the property of the town and shall report the same to the council annually. The report shall include a current inventory together with a list of additions and deletions or other dispositions for the preceding fiscal year.

#### **Section 3-4-4 Disposition of Personal Property**

Personal property shall be disposed of in the following manner:

- A. Personal property belonging to the town may be declared surplus by the property administrator and may be sold after a notice of invitation for bids is published in a newspaper of general circulation in the town for two consecutive weeks if in a weekly paper and four times if published in a daily. In addition, the property administrator shall have posted notices of the invitation for bids in three or more public places.
- B. Any property in the possession of the town which is contraband as defined by state law shall be disposed of in accordance with the applicable state statutes.
- C. Notwithstanding any of the above, any personal property, other than contraband, lawfully in the possession of the town, may be offered for sale at public auction, either individually or grouped in lots as may be deemed appropriate by the property administrator.
- D. The town may donate lost and found or unclaimed personal property in its custody for at least ninety days to nonprofit charitable organizations.

#### **Section 3-4-5 Disposition of Real Property**

- A. Limitations. No sale or other disposition of real property belonging to the town shall be final until approved by a majority vote of the council and all documents pertaining thereto shall be executed by the mayor and attested by the town clerk. If the value of the property exceeds one hundred thousand dollars, then the sale shall first be authorized at an election held pursuant to A.R.S. § 9-403.
- B. Advertisement; Bids. No real property belonging to the town shall be sold or otherwise disposed of except at public auction. The date, time and place of the public auction shall be posted not less than three weeks in advance of the date at town hall, on the site of the real property to be disposed of and in at least one other public place. In addition, the notice of sale shall be published in a paper having general circulation in the town once each week for two consecutive weeks if in a weekly paper or four times if in a daily paper preceding the sale, with the last such publication not less than three days before the sale. The notice shall include a legal description of the property, a common address and a location map.

The town shall have the right to reject any and all bids, to withdraw the property from sale prior to sale and to readvertise for sale.

- C. Appraisal Prior to Sale. Prior to the sale of any real property, the town shall obtain one or more appraisals of value from one or more disinterested parties. Such appraisal shall form the basis for valuation of the property to be sold.
- D. The town may exchange or sell real property to another political subdivision pursuant to the procedures specified in A.R.S. § 9-407.

## **Article 3-5**

### **CONTRACT ADMINISTRATION**

#### **Sections:**

- 3-5-1 Contract Administrator**
- 3-5-2 Change Orders and Amendments**
- 3-5-3 Acceptance of Work Completed**
- 3-5-4 Attestation of Contracts by Town Clerk**
- Section 3-5-1 Contract Administrator**

The town manager shall serve as the contract administrator for the town and as such shall supervise the execution and completion of all contracts entered into by or on behalf of the town.

#### **Section 3-5-2 Change Orders and Amendments**

- A. No change order shall be approved nor shall any amendment or alteration of any executory contract become effective without the express approval of the contract administrator. Such approval shall be in the form of a rider or written amendment executed by the parties and attached to the original contract.
- B. The contract administrator shall have the authority to approve a change order in an amount which is the lesser of \$20,000 or ten percent of the total contract value without prior approval of the council.
- C. Any change order, amendment or alteration greater than the lessor of \$20,000 or ten percent of the total contract value shall be furnished to the council for its prior approval.

(98-27, Amended, 09/03/1998)

#### **Section 3-5-3 Acceptance of Work Completed**

- A. Notice of Acceptance. When a contracting party providing goods or services to the town makes a request for acceptance by the town of work as completed, the contract administrator shall indicate acceptance on behalf of the town on a form designated for that purpose and shall notify the council of such acceptance. Until the notice of acceptance is issued, no public work completed on behalf of the town shall be considered as the property of the town, and the town shall assume no responsibility therefore.
- B. Release of Retainage; Conditions. The town shall not release any funds due but which are held as retainage until the contract administrator is satisfied that the work has been completed in accordance with the specifications of the contract.

(98-27, Amended, 09/03/1998; 98-27, Renumbered, 09/03/1998)

#### **Section 3-5-4 Attestation of Contracts by Town Clerk**

All contracts entered into by the town shall be attested by the town clerk and shall not be binding on the town until so attested. The town clerk shall retain the original of all contracts and agreements and shall



provide to the contract administrator such documents as are necessary for orderly administration of the town's business.

(98-27, Renumbered, 09/03/1998)

## **Article 3-6**

### **CIVIL PREPAREDNESS AND DISASTER**

#### **Sections:**

<b>3-6-1</b>	<b>Purposes</b>
<b>3-6-2</b>	<b>Definitions</b>
<b>3-6-3</b>	<b>Civil Preparedness Organization</b>
<b>3-6-4</b>	<b>Powers and Duties</b>
<b>3-6-5</b>	<b>Mutual Aid</b>
<b>3-6-6</b>	<b>Immunity of Town and Representatives Thereof</b>
<b>3-6-7</b>	<b>Violations</b>
<b>Section 3-6-1</b>	<b>Purposes</b>

The purposes of this article are to:

- A. Reduce vulnerability of people and the community to damage, injury and loss of life and property resulting from natural or man-made catastrophes, riots or hostile military or paramilitary action.
- B. Prepare for prompt and efficient rescue, care and treatment of persons victimized or threatened by disaster.
- C. Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters.
- D. Clarify and strengthen the roles of the mayor, council, manager and town agencies in prevention of, preparation for and response to and recovery from disasters.
- E. Authorize and provide for cooperation in disaster prevention, preparedness, response and recovery.
- F. Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response and recovery by agencies and officers of this town, agencies of the private sector and similar activities in which the federal government, the state and its political subdivisions may participate.
- G. Provide a disaster management system embodying all aspects of pre-disaster preparedness and post-disaster response.

#### **Section 3-6-2 Definitions**

In this article unless the context otherwise requires:

- A. "Civil preparedness" means the organization, administration, trained manpower, facilities, equipment, material, supplies, programs, emergency plans, ability to execute emergency plans and all other measures necessary and incidental thereto relating to disaster prevention preparedness response and recovery by all governmental and private sector agencies to protect or

save health, life or property.

- B. "Director" means the Director of Civil Preparedness.
- C. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property or extreme peril to the safety of persons or property, resulting from any natural or manmade causes, including but not limited to fire, flood, earthquake, wind, storm, blight, drought, famine, infestation, air contamination, epidemic, explosion, riot or other acts of civil disobedience which endanger life or property, or hostile military or paramilitary action.
- D. "Emergency" means the existence of a disaster within the town limits requiring immediate action by the emergency forces of the town.
- E. "Emergency forces" means all town governmental and private sector agencies, volunteers, facilities, equipment, trained manpower and other resources required to perform civil preparedness functions.
- F. "Local emergency" means the existence of a disaster within the town limits, and the situation is or is likely to be beyond the capability and resources of the town as determined by the mayor and which requires the combined efforts of other political subdivisions.
- G. "Regulations" means the orders, rules and emergency procedures deemed essential for civil preparedness.
- H. "State of emergency" means the duly proclaimed existence of a disaster within the state except a disaster resulting in a state of war emergency which is or is likely to be beyond the capabilities and resources of any single county, city or town and requires the combined efforts of the state and the political subdivision.
- I. "State of war emergency" means the situation which exists immediately whenever this nation is attacked or upon receipt by this state of a warning from the federal government indicating that such an attack is imminent. Local emergency" means the existence of a disaster within the town limits, and the situation is or is likely to be beyond the capability and resources of the town as determined by the mayor and which requires the combined efforts of other political subdivisions.

### **Section 3-6-3 Civil Preparedness Organization**

The town manager is hereby authorized and directed to create a civil preparedness organization. The director of civil preparedness shall be appointed by the mayor.

### **Section 3-6-4 Powers and Duties**

- A. The council:
  - 1. Shall have the power to make, amend and rescind regulations, not inconsistent with regulations promulgated by the governor, necessary for civil preparedness, which regulations shall have the full effect of this article when a copy is filed in the office of the clerk. Existing ordinances and regulations, or ordinances and regulations issued under authority of

A.R.S. Title 26, Chapter 2, in conflict therewith, are suspended during the time and to the extent that they are in conflict.

2. May appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for civil preparedness purposes.
3. In the absence of specific authority in state emergency plans and procedures, the council shall take emergency measures as deemed necessary to carry out the provisions of A.R.S. Title 26, Chapter 2.
4. In a state of war emergency the council may waive procedures and formalities required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials and facilities and appropriating and expending public funds when the council determines and declares that strict compliance with such procedures and formalities may prevent, hinder or delay mitigation of the effects of the state of war emergency. The town shall be exempt during such emergency from budget limitations prescribed by Article IX, Section 20 of the State Constitution.

B. The mayor:

1. In addition to the powers granted by other provisions of the law or town ordinance, the mayor may, by proclamation, declare an emergency or a local emergency to exist. The proclamation may be rescinded by a majority of the council after twenty-four hours.
2. During an emergency or local emergency, the mayor shall govern by proclamation and shall have the authority to impose all necessary regulations to preserve the peace and order of the town including, but not limited to:
  - a. Imposition of curfews in all or in a portion of the town;
  - b. Ordering the closing of any business;
  - c. Denying public access to any public building, street or other public place;
  - d. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the town for assistance.

C. The director:

1. The director is responsible in non-emergency periods to act on behalf of the mayor and council to develop a readiness plan for the town's civil preparedness and for coordinated operations in disaster situations.
2. During emergencies, the director shall act as the principal advisor or aide to the mayor on emergency operations. His major responsibility is to assure coordination among emergency forces and with higher and adjacent governments, by assuring that the emergency operation center functions effectively. He shall assist the mayor in the execution of operations, plans and procedures required by the emergency.

3. The director shall prepare a comprehensive disaster basic plan which shall be adopted and maintained by resolution of the council upon the recommendations of the director. In the preparation of this plan as it pertains to town organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies be used to the fullest extent.
4. The disaster plan shall be considered supplementary to this article and have the effect of law whenever emergencies, as defined in this article, have been proclaimed.

### **Section 3-6-5 Mutual Aid**

In periods of local emergency as declared pursuant to this article, the town is hereby granted full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements therefore. The town may request from state agencies mutual aid including personnel, equipment and other available resources to assist the town during the local emergency in accordance with emergency plans or at the direction of the governor.

### **Section 3-6-6 Immunity of Town and Representatives Thereof**

- A. The town shall not be liable for any claim based upon the exercise or performance, or the failure to exercise or perform a discretionary function or duty on the part of the town or any employee of the town, except willful misconduct, gross negligence or bad faith of any such employee, in carrying out the provisions of A.R.S. Title 26, Chapter 2.
- B. The immunities from liability, exemptions from laws, ordinances and rules, all pensions, relief, disability workmen's compensation and other benefits which apply to the activity of officers, agents or employees of the town when performing their respective functions within the limits of the town shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this article, excepting willful misconduct, gross negligence or bad faith.
- C. Volunteers duly enrolled or registered for services in a local emergency, a state of emergency or a state of war emergency in carrying out, complying with or attempting to comply with, any regulations issued pursuant to A.R.S. Title 26, Chapter 2 or any local ordinance, or performing any of their authorized functions or duties, or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy immunities as officers and employees of the state and its political subdivisions performing similar work.

### **Section 3-6-7 Violations**

It is unlawful for any person to violate any provision of this article or to refuse or willfully neglect to obey any lawful regulation or order issued as provided in this article. This provision, however, does not apply to the refusal of any private organization or members thereof to participate in an emergency, local emergency or state of emergency as defined by this article.

